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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,288	10/11/2005	Paul A Kurth	KUR1.Pau.07. US	6276
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Daniel I. Dawes Myers Dawes Andras & Sherman 19900 MacArthur Boulevard Suite 1150 Irvine, CA 92612				
EXAMINER				
STOKLOSA, JOSEPH A				
ART UNIT		PAPER NUMBER		
3762				
MAIL DATE		DELIVERY MODE		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/526,288

**Applicant(s)**

KURTH, PAUL A

**Examiner**

JOSEPH STOKLOSA

**Art Unit**

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4-7, 11, 14, 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Bonner (US 6,185,464).
3. Bonner discloses an apparatus for the placement of medical lead in the coronary sinus (Col. 2, line 18) that includes a flexible elongate tool with a lumen (e.g. Fig. 3, element 80), a flexible guide wire (e.g. element 50, Col. 12, line 26-37), and a straightening element, lead pusher, that is stiffer than the guide wire for advancing the lead (e.g. element 60, Col. 12, line 24).
4. With regard to claim 5, 11, and 18, Bonner inherently discloses the tool to have a predetermined stiffness greater than the wire, in that Bonner discloses the introducer catheter, 80, is introduced further to facilitate advancement through narrow and bending portions of vasculature.
5. With regard to claim 6, Bonner discloses the introducer catheter being removed once reaching smaller internal vasculature, then the guide wire and pushing means advances the lead to its final placement (Col. 13, line 59-Col. 14, line 3).

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6. Claims 1-3, 5, 7, 8, 9, 11, 12, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Bartig et al. (US 6,129,749).
7. Bartig discloses a system for delivering a lead through the coronary sinus (Col. 2, line 57) including a flexible guide wire (e.g. Fig. 2, element 34), a flexible elongate tool (pacing lead tubular member element 12) with a lumen for the guide wire and a lumen for a straightening wire for advancing the lead assembly (e.g. Fig. 2, removable stylet element 44).
8. With regard to claim 3 and 9, Bartig discloses that the straightening wire is stiffer than the guide wire and catheter in order to advance the lead if added stiffness is needed (Col. 3, line 43).
9. With regard to claim 5 and 11, Bartig's disclosed system inherently discloses that the tool have greater stiffness than the guide wire in that the size and proportional relationship of the lead system, tool, over the guide wire would need to have a greater stiffness in order to be advanced over the guide wire, other wise the tool lead assembly would exhibit a fold over effect.
10. With regard to claim 7, Examiner considers the lead assembly to be a catheter system in light of the inner lumens.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 2-3, 8-9, 10, 12-13, 15, 16, 17, 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bonner as applied above in view of Bartig as applied above.

13. With regard to claims 2-3, 8-9, 12-13, 15, 16, 19-20 Bonner discloses the claimed invention except for teaching at least two lumens for accepting both the flexible guide wire and a straightening wire. Bartig teaches that it is known to use at least two lumens as set forth in Fig. 3 for providing the predictable results of insulation of the guide wire conductor and a simultaneous telescopic disposition that would prevent tangling and facilitate disposition. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Bonner with the use of at least two lumens for providing the predictable results of insulation of the guide wire conductor and a simultaneous telescopic disposition that would prevent tangling and facilitate disposition.

14. With regard to claim 10 and 17, While Bonner discloses the claimed invention including the simultaneous insertion of the guide wire and straightening wire within a single lumen and not, the removal of the flexible guide wire to allow for insertion of the straightening wire, It would have been obvious to one having ordinary skill in the art to try the modification of the removal of the flexible guide wire to allow for insertion of the straightening wire since such a modification would provide the predictable result of decreasing implant size, which would improve overall biocompatibility, by not requiring a lumen and overall lead size large enough such that both the flexible wire and straightening wire are able to fit within the same lumen.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSEPH STOKLOSA whose telephone number is (571)272-1213. The examiner can normally be reached on Monday-Friday 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on 571-272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George R Evanisko/  
Primary Examiner, Art Unit 3762

Joseph Stoklosa  
Examiner  
Art Unit 3762

3/20/2008

/Joseph Stoklosa/

Examiner, Art Unit 3762